



A Word to Our Readers

THE Pocket Edition of CASE AND COMMENT scarcely needs an introduction to the legal profession. Except during the past few months, the magazine has been going to thousands of law offices for nearly a quarter of a century, and we trust that in its new form it will be as welcome a visitor as it has been in the past.

The initial issue of CASE AND COMMENT consisted of an eight-page leaflet published in May, 1894, as a house organ. This first number, in a brief foreword, characterized the cases which were being presented in the L.R.A. as "the valuable, the useful, those which really mark an advance in reasoning, or a novel application of settled rules;" and proposed to accompany some of these decisions, in the new publication, with such "comments and comparisons" as "may be of interest, perhaps of value."

From this modest beginning the magazine gradually increased the number of its departments, and grew in size and favor, until at the

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time of its temporary suspension, owing to war conditions, in June, 1918, it enjoyed a circle of readers unsurpassed by any American monthly law periodical.

Until December, 1909, **CASE AND COMMENT** was under the editorial supervision of Mr. Burdett A. Rich, editor-in-chief of The Lawyers Co-operative Publishing Company. Since that time it has been edited by the writer.

In renewing the publication of the magazine in its present form, we are continuing the policy upon which it was founded, i. e., the grouping in each issue of a number of recent important cases, with such comment upon them as may seem fitting either from a legal viewpoint or in the light of current events. There will be announcements, from time to time, of approved legal textbooks and other publications, and miscellaneous items of general interest to the profession, and the humorous and quaint and curious aspects of the law will not be neglected.

We are publishing **CASE AND COMMENT** for you, and we want you to feel that it is your magazine. Our aim is to serve and help you, and we shall be glad to have you let us know in just what way we can best do so. We appreciate your continued interest in the magazine, which has been evidenced by so many inquiries as to when its publication would be resumed. We trust that the Pocket Edition will meet with your favor.

Asa W. Russell.

**POCKET
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Case and Comment

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AMONG THE NEW DECISIONS

That Libelous Word—Anarchist

IN THE famous libel suit brought by Henry Ford against the Chicago Tribune, and which for three months last summer engaged the attention of the trial court, it was complained that the plaintiff had been characterized as an "anarchist" in the publication which was made the basis of the action.

The question involved in that case was comparatively a novel one, although not without precedent. It was held in *Cerveny v. Chicago Daily News Co.* 139 Ill. 345, 28 N. E. 692, 13 L.R.A. 864, that falsely publishing that a person is an "anarchist" is libelous. There the court quotes as sufficiently accurate the definition of Webster, which describes an anarchist as "one who excites revolt, or promotes disorder in a state." From this standpoint the accusa-

tion was viewed as more than that of being a member of a certain political party, for the reason that anarchy is the enemy of all government, while a political party "is always in support of some form of government, and, professedly, of that which is the best." A printed charge of anarchism, it seemed obvious to the court, was calculated to bring the individual against whom it was directed, into hatred, ridicule, and contempt, as professing vicious, degrading, and absurd principles, and confederating with others who also profess them. "Since government is the only guaranty we can have," states the opinion, "for protection in the enjoyment of life, and of all that makes life desirable, it is inevitable that all good citizens must regard those who advocate its destruction either with feelings of hatred or

contempt, in the same measure that they may regard them as powerful or impotent to carry out what they advocate."

It was held libelous in *Lewis v. Daily News Co.* 81 Md. 466, 32 Atl. 246, 29 L.R.A. 59, to falsely publish of a person that he "would be an anarchist if he thought it would pay." The declaration in that case averred that the word "anarchist" means a person who, actuated by mere lust of plunder, seeks to overturn by violence all constituted forms and institutions of society and law and order, and all rights of property. It alleged that an anarchist is universally accepted by all law-abiding persons in all countries as meaning an enemy and conspirator against all law and social order, and as one who uses unlawful, violent, and felonious means to destroy property and human life, and as one who is treasonable to the government under which he lives, and employs assassination of persons in authority as means of accomplishing his unlawful designs against society. "It is apparent," remarks the court, "that to accuse another of being an anarchist in the sense in which the term is generally accepted is to accuse him of that which will inevitably injure his reputation, and expose him to obloquy and ignominious reproach. If this be so, then to publish of another that he 'would be an anarchist if he

thought it would pay' is to impute to him the possession of that degree of moral obliquity and turpitude which would mark him as a fit person, if he were personally benefited thereby, to do the violent and felonious acts of which anarchists are known or believed to be guilty."

The word "anarchist" has been variously defined, and is susceptible of shades of meaning extending from one who views the absence of government as a political ideal to those who believe in or advocate the overthrow by force or violence of the government, or of all forms of law and social institutions. The question always arises in a suit for defamation based on this ground, as to the sense in which the term was used. Various definitions are referred to by the court in the opinion in *United States ex rel. Turner v. Williams*, 194 U. S. 279, 48 L. ed. 579, 24 Sup. Ct. Rep. 719. But at its best the word is a sinister one, and as popularly conceived, with accompaniments of bomb throwing, assassinations, and plunder, it conjures up dim terrors of infernal realms

*Where eldest Night
And Chaos, ancestors of Nature,
hold
Eternal anarchy amidst the noise
Of endless wars, and by confusion
stand.*

Employer's Liability for Death of Servant in Labor Dispute

A RECENT decision of practical importance, in view of the prevailing industrial unrest, is the California case of *Manwell v. Durst Bros.* 174 Pac. 881, annotated in 1 A.L.R. 669, which holds that an employer is not liable in damages to the personal representatives of an employee killed during a labor dispute by one of a mob, which the employee was assisting officers to drive from the employer's premises, where it did not appear that the dangerous nature of the employment was concealed from the employee, but rather that he had notice of it.

The absolute right of an employer to engage others to assist him in expelling from his premises discontented workmen who have assumed a threatening attitude was upheld in this case. The mere fact of such employment does not constitute negligence, the court remarking: "Many necessary employments are notoriously hazardous. . . . Of course, the employer must use what is reasonable care under the circumstances to protect his employee from injury in the rendition of his service.

. . . And where the danger is not obvious from the very terms of the employment and the nature of the service prescribed, it may freely be conceded that it is the duty of the employer to acquaint the employee with the facts of which he has actual or imputed knowledge, and that if he fails to do this he is guilty of negligence. In such a case, it is the employment without informing the employee of the danger that constitutes the negligence."

Similarly, in *Holshouser v. Denver, Gas & E. Co.* 18 Colo. App. 431, 72 Pac. 290, 13 Am. Neg. Rep. 635, where one was employed during the existence of a strike, without being informed of that fact, and first learned of it when assaulted and injured by strikers, the court held the employer liable in damages, saying: "It is uniformly held that in inducting an employee into an employment which involves exposure to some invisible danger, no matter what the cause or nature of the peril may be, the employer, to escape responsibility, must impart to the employee his own knowledge of the situation."

Rights of Purchaser of Stolen Bonds

THEFTS of Liberty Bonds^{*} have been reported from time to time in the daily press. This form of negotiable security, so generally owned, affords a tempting field for the depredations of larcenists. They will, of course, attempt to dispose of the bonds by sale, and this fact lends an especial interest to the question as to the rights acquired by a purchaser of stolen bonds.

The recent case of *Pratt v. Higginson*, 230 Mass. 256, 119 N. E. 661, annotated in 1 A.L.R. 714, is authority for the proposition that bonds having a legal inception and payable to bearer, or blank as to the payee, or payable to order and indorsed in blank, are negotiable paper, and that the purchaser of such bonds, although they have been stolen, acquires a good title thereto as against the true owner, providing he purchased in good faith and for a valuable consideration.

The good faith required of the purchaser of stolen bonds may be defined as the absence of bad faith, and it is the general rule that actual bad faith must be shown. The purchaser will be protected unless the circumstances are such that an inference can be fairly and legitimately drawn that the purchase was made with notice of the sel-

ler's defective title. It is said in *Seybel v. National Currency Bank*, 54 N. Y. 288, 13 Am. Rep. 583, that a purchaser is under no obligation to make an inquiry of the person offering bonds for sale as to his right or title thereto, nor need he take any special precautionary measures; for even though chargeable with negligence, this alone will not suffice to defeat his title.

The title to the interest coupons of United States bonds, payable to the bearer, passes by delivery, and in *Spooner v. Holmes*, 102 Mass. 503, 3 Am. Rep. 491, they are held to be "subject to the same rules as bank bills or other negotiable instruments payable in money to the bearer."

But though the owner of negotiable securities payable to bearer or indorsed in blank, stolen and sold by the thief, cannot recover the same from a bona fide purchaser for value, he may, as stated in 24 R. C. L. 378, "pursue the proceeds of the sale, in the hands of the thief or his assignee with notice, through whatever changes the proceeds may have gone, so long as the proceeds or the substitute therefor can be distinguished or identified, and may have the same subjected by a court of equity to a lien or trust in his favor."

Liability of Street Railway Company to Alighting Passenger Struck by Passing Vehicle

INJURIES inflicted by passing vehicles upon passengers alighting from street cars have become a familiar type of accident in busy thoroughfares. The general rule governing this class of cases, as stated in 4 R. C. R. 1047, is that "a person attempting to alight from a street car remains a passenger until he has accomplished the act of alighting in safety, and the carrier owes to the passenger attempting to alight that very high degree of care and attention which the law puts upon it generally to the end of promoting the safety of its passengers, and it will be liable for negligent injury to the passenger while so alighting."

This rule was applied in *Wood v. North Carolina Pub. Service Corp.* 174 N. C. 697, 94 S. E. 459, which is annotated in 1 A.L.R. 942. In this case a woman passenger was struck the instant she reached the ground, by an automobile passing at high speed. The company was held liable on the theory that it had failed to perform its duty to afford the passenger a safe place to alight, and it was further determined that it could not avoid liability for its neg-

ligence because the driver of the automobile was also negligent. Failure to afford a passenger a safe place to alight was also held to render a street car company liable, in *Norton v. Third Ave. R. Co.* 26 App. Div. 60, 49 N. Y. Supp. 898, where the conductor gave the signal to start the car while a woman passenger was in the act of alighting, and before an opportunity had been afforded her of stepping on the street, and she was injured by a truck approaching in close proximity to the car.

As pointed out in *Wood v. North Carolina Pub. Service Corp.* supra, there is a conflict of authority as to the obligation of a street railway after a passenger has left the car, the courts of Alabama and Kentucky holding that it must provide a reasonably safe place and way, and others that, since the company has no stations and no control over the streets, the relation of carrier and passenger ceases when the passenger has safely alighted. The weight of authority seems to be with the latter view, and to impose upon the railway company the duty of exercising the highest degree of care to afford a passenger an opportunity

to alight in safety. "Passenger carriers bind themselves," says a learned author, "to carry safely those whom they take into their

coaches, as far as human care and foresight will go—that is, to the utmost care and diligence of very cautious persons."

Motor Truck Transportation

A WIDESPREAD popular interest is being manifested in the possibility of establishing a more intimate and direct transportation service to rural districts through a more complete utilization of our highways. An effort is being made by the Federal Bureau of Markets to introduce the elements of stability into the rural motor industry, as constituted at present, through direct co-operation with owners and operators of existing motor-truck routes. An accounting system which will indicate costs of operation has been devised for the use of operators of motor routes, and approved forms of shipping records have been suggested to them. Emphasis has been placed on the necessity for adequate insurance covering motor-truck cargoes.

Eight demonstration routes have been established and operated successfully, studies have been made of the operation of farmers' co-operative truck associations, and a preliminary survey of the marketing of live stock by motor truck has been conducted in certain live-

stock centers. When this method of transportation becomes fully organized and available to marketing associations, the consumer should be able to obtain agricultural products at a very much lower figure than ever before.

These lines of transportation will rank as public utilities and be subject to control as such. Carriers transporting either passengers or goods, or both, by motor trucks or busses, have been generally held to be subject to the jurisdiction of public service commissions; at least, where the transportation is over regular routes and for the accommodation of the public at fixed rates. *Western Asso. v. Railroad Commission*, 173 Cal. 802, P.U.R.1917C, 178, 162 Pac. 391, which is annotated in 1 A.L.R. 1455, holds that constitutional authority conferred upon a public service commission to establish rates for the transportation of freight and passengers by railroad and other transportation companies applies to lines of motor trucks and busses operating on the highways of the state between the

different municipalities, for the common carriage of freight and passengers. Similar control is exercised over public motor vehicles operating for hire in Arizona, District of Columbia, Georgia, Illinois, Maryland, Pennsylvania, West Virginia, and Wisconsin.

Extensive motor bus or truck lines for the carriage of passengers and freight, running over fixed routes, are a possibility of the near future. Operating over improved highways, they will bring hitherto remote areas in close touch with market centers.

"Last year" states a writer in Leslie's, "I had one ton of my food, clothing, and other articles of necessity or luxury which I used hauled 60 miles by motor truck, and so did you, and so did John Smith, and his wife, and each one of his children. In fact, every man, woman, and child of the 110,-

000,000 inhabitants of this country were direct participants in the more than 6,500,000,000 ton-miles that represented the work of the trucks in this country for the year.

"If the legislators who introduce the annual crop of absurd bills restricting or heavily taxing the activities of motor trucks could be deprived of such service for a while, they would undergo a sudden change of heart and would foster constructive legislation which would hasten, instead of retard, the inevitable use of trucks."

The development of motor truck transportation is likely to bring to the fore the question whether one engaging in such transportation as a business is liable as a common carrier for goods committed to his charge. A recent English case on this point, *Belfast Ropework Co. v. Bushell*, is reported and annotated in 8 B. R. C. 783.

Liability of National Bank Director for Nonattendance

THE residence of a national bank director some 200 miles from the location of the bank is held in *Bowerman v. Hamner*, 250 U. S. —, 63 L. ed. —, 39 Sup. Ct. Rep. 549, not to excuse such utter abdication of his common-law responsibility for the con-

duct of its affairs and the flagrant violation of his oath of office, resulting in loss to others, as is shown by his failure to attend a single directors' meeting, regular or special, during the entire five and one-half years of the bank's existence, and his failure, being

himself a banker, to make, or cause to be made, any examination whatever of the books or papers of the bank, to determine its condition and the way in which it is being conducted. The court, in its opinion, cites *Briggs v. Spaulding*, 141 U. S. 132, 35 L. ed. 662, 11 Sup. Ct. Rep. 924, in which it is said: "Without reviewing the various decisions on the subject, we hold that the directors must exercise ordinary care and prudence in the administration of the affairs of the bank, and that this includes something more than officiating as figureheads. They are entitled under the law to commit the banking business, as defined, to their duly authorized officers, but this does not absolve them from the duty of reasonable supervision, nor ought they to be permitted to be shielded from liability because of want of knowledge of wrongdoing, if that ignorance is the result of gross inattention."

It was said by Sharswood, J., in *Spering's Appeal*, 71 Pa. 11, after reviewing the English and American cases, "that, while directors are personally responsible to the stockholders for any losses resulting from fraud, embezzlement, or wilful misconduct, or breach of trust for their own benefit and not for

the benefit of the stockholders, for gross inattention and negligence by which such fraud or misconduct has been perpetrated by agents, officers, or codirectors, yet they are not liable for the mistakes of judgment even though they may be so gross as to appear to us absurd and ridiculous, provided they are honest, and provided they are fairly within the scope of the powers and discretion confided to the managing body."

But this definition of the nature of a director's responsibility, with its accompanying limitation, was criticized by Earl, J., in *Hun v. Cary*, 82 N. Y. 65, 37 Am. Rep. 546, where he likens a director to a mandatory, who "is bound not only to exercise proper care and diligence, but ordinary skill and judgment. As he is bound to exercise ordinary skill and judgment he cannot set up that he does not possess them."

It was laid down in the early case of *Charitable Corp. v. Sutton*, 2 Atk. 405, 26 Eng. Reprint, 642, 9 Mod. 349, 88 Eng. Reprint, 500, that if directors are guilty of gross nonattendance, and leave the management entirely to others, they may be guilty by this means, of the breaches of trust that are committed by others.



Promoters and Their Profits

IN ORDER to render a person liable to another for a profit made by him, it is necessary (a) that a fiduciary relation should exist between himself and such other person, and (b) that his conduct in the matter should constitute a breach of such fiduciary relation. It is well settled that a fiduciary relation exists between members of a syndicate formed to undertake a joint adventure, and between a promoter of a corporation formed by him and persons who become members thereof at his inducement. The real difficulty which arises in cases where a syndicate or corporation is formed to purchase specific property at a stated price is whether the conduct of a promoter who has personally profited by the transaction amounted to a breach of trust. On the one hand, it is unquestionably competent for the owner of property to ask any price he likes, even in disposing of the property to a corporation or syndicate promoted by him, so long as he discloses that he is the real vendor. On the other hand, if he has falsely represented to his associates or to the persons whom he induces to take stock in the corporation that he is putting in the property at cost, he is accountable for the profits realized by him.

Although the courts agree that the promoter may not misrepresent the price at which he is putting in the property, they seem to differ upon the question whether he is under an affirmative duty to disclose the price at which he purchased. While the broad rule has been laid down that it is the duty of a promoter toward those who are invited to co-operate in the enterprise, not only to abstain from stating as a fact that which is not so, but not to omit to state any fact within his knowledge the existence of which might in any form affect the extent or the quality of advantages held out as an inducement, this is probably true only where the corporation or syndicate is without adequate independent advice; and the weight of authority seems to be that the duty is fulfilled where he discloses the fact that he is the real vendor, and that he is not bound to make known the price at which he purchased the property so long as he does not, actively or passively, mislead his associates as to its amount.

The circumstances under which the promoter of a scheme to purchase specific property at a stated price becomes accountable for a profit made by him in the transaction are reviewed in the annotation in 8 B. R. C. 907.

Recent Important Cases

Alien — violation of law — refusal of citizenship. That a saloon keeper who habitually violated the Sunday Law will be denied naturalization, although the law was not enforced, and it was necessary to keep his place of business open to retain his trade, is held in *United States v. Gerstein*, 234 Ill. 174, 119 N. E. 922, to which is appended in 1 A.L.R. 318, a note on refusal of naturalization for violation of law.

Arrest — justice of the peace. That a justice of the peace is subject to arrest on a criminal charge, unless exempted by Constitution or statute, is held in the case of *Gross v. State*, 186 Ind. 581, 117 N. E. 562, which is followed in 1 A.L.R. 1151, by a note on the immunity of a public officer from criminal arrest.

Arrest — without warrant — unconstitutional seizure. The constitutional guaranty of security of person from unreasonable seizure is held to make unlawful an arrest on mere verbal complaint to an officer by a citizen of trespass upon his property, in the Alabama case of *Re Rhodes*, 79 So. 462, annotated in 1 A.L.R. 568, on the question of the constitutionality of a statute or ordinance authorizing an arrest without a warrant.

Arson — charring fiber. Under a statute providing for punishment of any person who shall set fire to a building, the offense is held to be complete when the nature of the fiber of the combustible to which the fire is set is changed or charred, in *Crow v. State*, 136 Tenn. 333, 189 S. W. 687, which is accompanied in 1 A.L.R. 1160, by a note on burning as an element of the offense of arson.

Associations — acquittal of member — effect. If a member of a society is once acquitted on a trial upon charges preferred against him, he cannot, it is held in the case of *Rueb v. Rehder*, 24 N. M. 534, 174 Pac. 992, annotated in 1 A.L.R. 423, be tried again for the same offense, unless the by-laws of the association specifically authorize a second trial therefor.

Automobile — injury by driver — presence of owner — liability. An owner of an automobile is held not liable in damages in *Zeeb v. Bahnmaier*, 103 Kan. 599, 176 Pac. 326, annotated in 2 A.L.R. 883, for the tort of another adult person who is in the possession of it, and who has the control and management of it, on the mere ground that the owner was present when such other person, although experienced in the operation of the automobile, committed a tort by momentary negligence in driving it.

Automobile — injury to guest of child — liability. The owner of an automobile is held liable, in *Flinn v. Lewis*, 231 Mass. 550, 121 N. E. 493, annotated in 2 A.L.R. 896, for injuries through the overturning of the car by the negligence of the driver, to a guest invited by his child, with his permission, to ride in the car, only in case the driver was guilty of gross negligence.

Automobile — infant trespasser — duty. Where the owner of an automobile, upon returning to his car, finds an infant four and one-half years of age thereon, and twice drives the infant from the car, the owner is held in the Ohio case of *Ziehm v. Vale*, 120 N. E. 702, annotated in 1 A.L.R. 1381, not thereby absolved from further duty towards such infant. Un-

der such circumstances, when the child still remains in close proximity to the car, the driver is required to exercise reasonable care to avoid injury to the child.

Bailment — receptacle — want of knowledge. There seems to be a difference of judicial opinion as to whether or not the acceptance of a receptacle, such as a box, chest, package, or envelop, charges the depositary as a bailee of the contents. However, but very few cases have passed directly upon the question, and therefore it cannot be said that there is any well-settled rule upon the point.

It is held in *Sawyer v. Old Lowell Nat. Bank*, 230 Mass. 342, 119 N. E. 825, that a bank accepting from a customer a box for safe-keeping, without knowledge of its contents, is not liable in damages for failure to produce and deliver a will contained in the box, upon decease of the customer. On the other hand, as shown in the note accompanying the preceding case in 1 A.L.R. 269, several courts have seemingly regarded one who accepts a receptacle for safe-keeping as a bailee of the contents, even though he had no knowledge of such contents.

Bankruptcy — promise to pay after discharge — compensation — consideration — moral obligation. The moral obligation to pay a debt discharged in bankruptcy is held sufficient consideration in *Herrington v. Davitt*, 220 N. Y. 162, 115 N. E. 476, annotated in 1 A.L.R. 1700, to support a promise to pay, even though there was a composition of the creditors assented to and accepted by the one seeking to enforce the unpaid debt.

Banks — verbal direction to pay check — effect of Negotiable Instruments Act. A verbal direction by a depositor to a bank to pay the deposit on checks drawn by a third person is held not invalidated in *Pierson v. Union Bank & T. Co.* 181 Ky. 749, 205 S. W. 906, annotated in 2 A.L.R. 172,

by the provision of the Negotiable Instruments Act that the signature of any party may be made by an agent duly authorized in writing.

Bills and notes — decease of indorser — notice. When a notary on the due day of a promissory note presents it at the bank where it is made payable, and it is dishonored, and he protests it for nonpayment, and receives information from the assistant cashier that the indorser is dead, leaving a will appointing an executor, naming him and giving his address, a notice of protest mailed to the indorser by name, in care of the executor, naming him, at his address, is held in the case of *Second Nat. Bank v. Smith*, 91 N. J. L. 531, 103 Atl. 862, to be sufficient evidence of reasonable diligence, as required by § 98 of the Negotiable Instruments Act, to be presented to the jury.

The question as to whom notice of protest or of dishonor of commercial paper should be given, in the event of the death of the party entitled thereto, is treated in the note following the foregoing decision in 1 A.L.R. 470.

Bills and notes — increased interest — negotiability. A promissory note for the payment of a sum certain on a date named, and otherwise negotiable, is held in the *Oklahoma case of Union Nat. Bank v. Mayfield*, 174 Pac. 1034, not to be rendered non-negotiable by a stipulation therein to the effect that, if the note be not paid on or before maturity, it shall bear interest from date at the increased and fixed rate.

This case is annotated in 2 A.L.R. 135, on the question of negotiability as affected by a provision in relation to interest or discount.

Bills and notes — indorsement without recourse — effect. One who indorses a promissory note without recourse is a qualified indorser, and warrants to subsequent bona fide holders: First, that the instrument is

genuine and what it purports to be; second, that he has a good title to it; third, that all prior parties had power to contract; fourth, that he had no knowledge of any fact which would impair its validity or render it valueless. It is held in the Oklahoma case of *State Exch. Bank v. National Bank*, 174 Pac. 796, that he cannot, in an action in which he is made a party, brought by a subsequent bona fide holder of the instrument, impeach such warranty by objecting to the judgment against the maker and prior indorsers in favor of such holder.

The undertaking of one who indorses a note without recourse is considered in the note which accompanies this decision in 2 A.L.R. 211.

Boundaries — call for tree — center or edge. In determining the corner of a grant described in a deed as a certain distance from a tree, it is held in *Coombs v. West*, 115 Me. 489, 99 Atl. 445, 2 A.L.R. 1424, that the measurement must be from the center of the tree.

Boundaries — property abutting on highway. Where a conveyance is of property abutting on a public highway, or where the descriptive lines run to or along such highway, it is held in *Re Bronx Parkway*, 209 N. Y. 344, 103 N. E. 508, annotated in 2 A.L.R. 1, that an intent on the part of the grantor to convey title to the center of the highway is presumed; which presumption, however, must yield to language showing a contrary intent.

Building contract — time for payment — contract silent. In the absence of agreement as to payment for work under a building contract, it is held in *Stewart v. Newbury*, 220 N. Y. 379, 115 N. E. 984, that no payment can be demanded until the work is substantially performed.

The cases on the subject as to when payment is due under a contract to render services, silent as to the time

of payment, are gathered in the note appended to the foregoing decision in 2 A.L.R. 519.

Chattel mortgage — cattle — increase and accretions. That a chattel mortgage given by the owner of a number of cattle to secure a loan to purchase additional cattle, which purports to cover certain animals together with all increase thereof and accretions thereto, will include animals purchased as additions to the herd, is held in *Stockyards Loan Co. v. Nichols*, 156 C. C. A. 209, 243 Fed. 511, which is annotated in 1 A.L.R. 547, on the question whether the term "increase," used in the description in a chattel mortgage on animals, includes increase other than by generation.

Check — acceptance — telegram. A telegram is held to satisfy the requirements of the Statute of Frauds that acceptance of a check must be in writing, in *Selma Sav. Bank v. Webster County Bank*, 182 Ky. 604, 206 S. W. 870, annotated in 2 A.L.R. 1136.

Conspiracy — to defeat contract — liability. Persons participating in a successful conspiracy with a man to dissipate his property, so as to deprive his divorced wife of the benefit of her antenuptial contract for payment of a specified sum to her at his death, are held liable to her in damages, in *Schwenn v. Schwenn*, 166 Wis. 420, 166 N. W. 171, which is followed in 2 A.L.R. 281, by a note on civil liability for conspiring to aid a debtor to evade payment of his pecuniary obligations.

Constitutional law — criminal syndicalism. The provisions of Minn. Gen. Laws 1917, chap. 215, declaring and defining the crime of criminal syndicalism, and prohibiting the advocacy or teaching of sabotage or other methods of terrorism as a means of accomplishing industrial or political ends, are held not to violate

either the state or Federal Constitution, or to impair or abridge any rights thereby secured or protected, in the case of *State v. Moilen*, 140 Minn. 112, 167 N. W. 345, which is followed in 1 A.L.R. 331, by a note as to the validity of legislation directed against social or industrial propaganda, deemed to be of a dangerous tendency.

Constitutional law — police power — registration of ingredients of patent medicines. Requiring the registration of a statement of the ingredients of patent or proprietary medicines with the health department as a condition to the sale of such medicines is held to be within the police power, in *Fougera & Co. v. New York*, 224 N. Y. 269, 120 N. E. 642, annotated in 1 A.L.R. 1467.

Contract — advertising — definition of paid subscriber. That delinquent subscribers cannot be counted, in determining whether or not there has been a breach of an advertising contract guaranteeing a certain number of paid subscribers, is held in *Cream of Wheat Co. v. Arthur H. Crist Co.* 222 N. Y. 487, 119 N. E. 74, annotated in 1 A.L.R. 150.

Contract — to provide for third person by will — enforcement. That a beloved and favorite niece of a childless woman may enforce a contract by the woman's husband to provide for such niece in his will, for a consideration furnished by the aunt, is held in *Seaver v. Ransom*, 224 N. Y. 233, 120 N. E. 639, annotated in 2 A.L.R. 1187.

Damages — loss of profits — future business. Loss of profits estimated from the volume of business done the year after the store was opened cannot, it is held in *Cramer v. Grand Rapids Show Case Co.* 223 N. Y. 63, 119 N. E. 227, be allowed as damages for breach of contract to furnish fixtures, which prevents the opening at the time intended.

This decision is accompanied in 1 A.L.R. 154, by a note as to measure of damages for breach of contract preventing operation of nonindustrial business in contemplation, but not established or in actual operation.

Deed — conveyance to one "and Co." A conveyance to a partnership composed of two persons, under the firm name of one of them "and Co.," is held to pass title to the partners as tenants in common, in *Kentucky Block Cannel Coal Co. v. Sewell*, 162 C. C. A. 74, 249 Fed. 840, which is accompanied in 1 A.L.R. 556, by a note on the effect of designating a grantee in a deed or mortgage by a firm name.

Divorce — collusion to defraud court — effect. An agreement between married people that one shall bring an action for divorce, and the other fail to defend it, and especially on a ground that is not the real one, is held to be a collusion to defraud the courts, in *Edleson v. Edleson*, 179 Ky. 300, 200 S. W. 625, accompanied in 2 A.L.R. 689, by a note on collusion as a bar to divorce.

Divorce — correspondent as party — serving process. A statute requiring the correspondent to be made a party to a divorce proceeding is held in *McLarren v. McLarren*, 45 App. D. C. 237, not to apply if the identity of the correspondent cannot be established, although the name under which he acted is known.

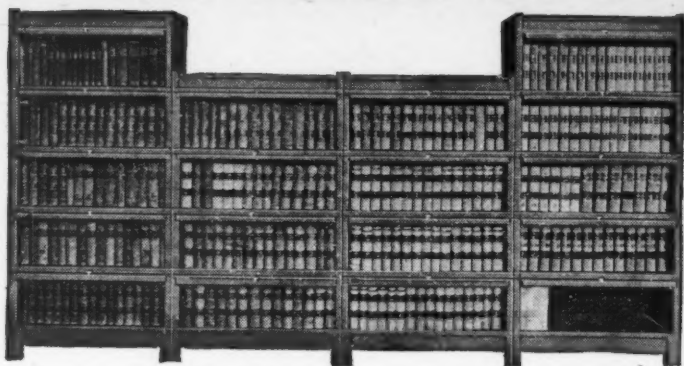
The necessity of serving process upon the correspondent in a divorce suit is treated in the note appended to the preceding case in 1 A.L.R. 1412.

Evidence — entire conversation containing confession. That one against whom statements have been admitted in evidence, as containing implied confessions of guilt, may testify as to what he in fact said at the time alleged, is held in *Lowber v. State*, 6 Boyce (Del.) 353, 100 Atl. 322, annotated in 2 A.L.R. 1014.

(continued on page 18.)

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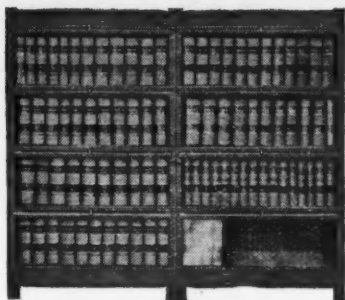
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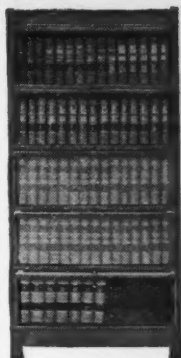
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(continued from page 15.)

Evidence — parol — title to real estate. When the title to real estate is only collaterally involved, it is held in *Shanks v. Robertson*, 101 Kan. 463, 168 Pac. 316, annotated in 1 A.L.R. 1140, that the title deeds need not necessarily be produced. Parol evidence of ownership may be received.

Evidence — proof of slander. In an action for slander the proof of the words spoken need not correspond in every particular with the words as charged. It is held sufficient in *Hayes v. Nutter*, 98 Kan. 75, 157 Pac. 428, that the words charged are substantially proved by the evidence.

What constitutes variance between pleading and proof of defamatory words is considered in the note appended to the foregoing case in 2 A.L.R. 365.

Evidence — res ipsa loquitur — running truck onto sidewalk. Permitting a heavy auto truck to be diverted without warning from the street onto the sidewalk, to the injury of a person standing there, is held in *Brown v. Des Moines Steam Bottling Works*, 174 Iowa, 715, 156 N. W. 829, to be prima facie evidence of negligence, to overcome which, by proof of due care, the burden is on the owner of the truck.

The liability arising from an injury by a road vehicle to a person on the sidewalk is considered in the note appended to the foregoing decision in 1 A.L.R. 835.

Exemptions — proceeds of homestead. The exemption of the homestead of the family, provided in Oklahoma Constitution, article 12, is held in the Oklahoma case of *Field v. Goat*, 173 Pac. 364, annotated in 1 A.L.R. 478, to extend to the proceeds of a voluntary sale of such homestead, which are in good faith intended, at the time of such sale, to be invested in another homestead, and such proceeds are exempt from seizure by process of garnishment for debts not

within the exceptions provided in such article.

Fraud — false representations as to age — liability. One induced to employ a minor under statutory age by false representations of the minor's father that he had attained the prescribed age may, it is decided in *Stryk v. Mnichowicz*, 167 Wis. 265, 167 N. W. 246, 1 A.L.R. 297, hold the father liable for the expenses to which he is subjected by a recovery against him by the minor, because employed in violation of the statute, for injuries received in the employment.

Habeas corpus — arrest of one suspected of having contagious disease. Habeas corpus, it is held in the case of *Ex parte Harcastle*, — Tex. Crim. Rep. —, 208 S. W. 531, lies to inquire into the legality of the detention of one who has been arrested on the warrant of a health officer, without a hearing, as being suspected of being afflicted with a contagious disease.

The right of one detained pursuant to quarantine, to habeas corpus, is discussed in the note appended to the foregoing decision in 2 A.L.R. 1539.

Homicide — defense of illegal business — duty to retreat. The right to kill without retreating is held not to exist with respect to a place of unlawful business, such as an isolated illicit still, in *Hill v. State*, 194 Ala. 11, 69 So. 941, annotated in 2 A.L.R. 509.

Homicide — attempt to dispose of body — evidence of guilt. A legless cripple who did not show a mark or bloodstain cannot, it is held in *People v. Galbo*, 218 N. Y. 283, 112 N. E. 1041, be convicted of murder, either as principal or accessory before the fact, of a strong man whose body shows marks of a fierce combat before death, merely because he attempted to dispose of the body and

swore falsely about his connection with such disposition.

The note which accompanies this case in 2 A.L.R. 1220 contains the cases on an attempt to conceal or dispose of the body of a person murdered, as evidence connecting the accused with the homicide.

Husband and wife — action for killing wife. The statutes removing the disabilities of married women are held in the Virginia case of *Keister v. Keister*, 96 S. E. 315, annotated in 1 A.L.R. 439, to give the wife no right to sue the husband for assault, and therefore her personal representatives have no right of action against him for wrongfully causing her death.

Insurance — accident — death from poison. That no recovery can be had for death from strychnine, mixed in some unaccountable way, without the knowledge of insured, in medicine which he took, under an accident policy relieving the insurer from liability for death resulting from poison voluntarily or involuntarily taken, is held in the Iowa case of *Riley v. Interstate Business Men's Acci. Asso.*, 169 N. W. 448, annotated in 2 A.L.R. 57.

Insurance — sale of land — reservation of building — change of interest. A sale of the land on which an insured building rests, with right of removal of the building, does not, it is held in the Texas case of *Insurance Co. of N. A. v. O'Bannon*, 206 S. W. 814, annotated in 1 A.L.R. 1407, prior to the time specified for removal, if the vendor remains in possession, effect a change of title or interest within a provision avoiding an insurance policy in case of change of title or interest of the subject of insurance.

Juror — qualification — wagering on result. That one who has made a wager on the conviction of a man charged with murder is not fit to sit

as a juror at his trial is held in the Vermont case of *State v. Warm*, 105 Atl. 244, annotated in 2 A.L.R. 811.

Jury — disqualification. One who contributes to a fund to employ an attorney to assist in the prosecution of a person charged with an offense is held disqualified to sit as a juror on his trial for such offense, in the Florida case of *Blackwell v. State*, 79 So. 731, which is annotated in 1 A.L.R. 502.

Labor union — boycott — liability. The circulation by a labor union among master masons of a statement that members of the union would refuse to work for certain contractors for the false reason that they had been working nonunion masons, for the purpose of preventing such contractors from securing mason work, which results in putting the contractors out of business, is held to give them a right of action for damages, although the purpose of the union was the lawful one of furthering the interests of its members, in *Martineau v. Foley*, 231 Mass. 220, 120 N. E. 445, which is accompanied in 1 A.L.R. 1145, by a note on the liability of a labor union or its members, for circulating false statements with respect to industrial disputes.

Levy — shares of stock. Though an execution creates a lien upon shares of the capital stock of a corporation owned by the debtor it is held in the West Virginia case of *Lambert v. Huff, A. & T. Co.* 95 S. E. 1031, annotated in 1 A.L.R. 650, that such shares cannot be seized and sold under an execution, by the officer holding it, because they are intangible property in the nature of choses in action, and incapable of manual seizure, possession, or delivery.

Libel — privilege — extent — application for pardon. Counsel's privilege with respect to allegations in an application for pardon on behalf of a client is held not absolute, in *Andrews*

v. Gardiner, 224 N. Y. 440, 121 N. E. 341, annotated in 2 A.L.R. 1371.

License — restaurant — exemption of Y. M. C. A. A constitutional provision exempting public charitable institutions from taxation is held in *Corbin Y. M. C. A. v. Com.* 181 Ky. 384, 205 S. W. 388, to apply and to exempt a Young Men's Christian Association from payment of a license fee for maintaining a restaurant in its building, for the accommodation of members and those occupying rooms in the building.

Whether it is necessary that a charitable or social organization procure license for its special activities is considered in the note appended to this case in 1 A.L.R. 264.

Mines — apex — summit of anticlinal fold. The highest point of a vein consisting of an anticlinal fold is held in *Jim Butler Tonopah Min. Co. v. West End Consol. Min. Co.* 39 Nev. 375, 158 Pac. 876, to be its apex, although it does not come to the surface, and the owner of the claim in which the apex exists may follow the respective dips across his opposite side lines, although his point of discovery was not at the apex, but on one of the dips.

The note which accompanies this case, in 1 A.L.R. 405, discusses the question as to what is the top or apex of a vein or lode.

Negligence — making repairs — liability of machinist. One holding himself out as a machinist and accepting employment to repair a steam engine is held in the *Arkansas case of Arkansas Mach. & Boiler Works v. Moorhead*, 205 S. W. 980, annotated in 1 A.L.R. 1652, to be liable for the loss proximately resulting from a negligent and unskilful performance of his work.

Nuisance — poles in street. Poles placed by a street railway company in a public highway to support its

wires are held to be a nuisance in *Stern v. International R. Co.* 220 N. Y. 284, 115 N. E. 759, 16 N. C. C. A. 271, annotated in 2 A.L.R. 487, if the place chosen for them is dangerous and the danger so needless that the choice becomes unreasonable.

Parent and child — failure to support illegitimate — prosecution — disputing presumption of legitimacy. A man, it is held in *Re Madalina*, 174 Cal. 693, 164 Pac. 348, cannot be prosecuted for failure to support his illegitimate child by another man's wife, where the statute declares that all children born in wedlock are presumed to be legitimate, and that this presumption can be disputed only by the husband or wife, or the descendants of one or both of them, since the state is not in a position to raise the question of legitimacy.

The question as to who may dispute the presumption of the legitimacy of a child born in wedlock is discussed in the note appended to the foregoing case in 1 A.L.R. 1629.

Pleading — divorce — sufficiency of allegation. A bill for divorce on the ground of adultery, specifying the person with whom the alleged act of adultery was committed, and also the time and place, is held not bad on demurrer, for failure to allege other circumstances of the alleged offense in *Anderson v. Anderson*, 78 W. Va. 118, 88 S. E. 653, annotated in 2 A.L.R. 1617.

Telephone — use by licensee — injury — liability. A telephone company is held not liable in the absence of wilfulness, wantonness, or malice, in the *Washington case of Inman v. Home Teleph. & Teleg. Co.* 177 Pac. 670, annotated in 2 A.L.R. 1543, for injury by electric shock to one who, by permission of a neighbor, is attempting to use the latter's rented phone in a private residence.

Trial — question for jury — wearing high-heeled shoes — negligence. The jury, it is held in *Taylor v. Spokane*, 100 Wash. 409, 171 Pac. 249, must determine whether one injured by falling on an icy pavement was negligent in wearing upon such pavement, a high-heeled shoe which is in evidence before them.

The subject of character of apparel, as affecting contributory negligence of a woman, is discussed in the note which accompanies the foregoing note in 2 A.L.R. 1046.

Trust — purchase by trustee — validity. That a trustee with power to sell cannot purchase the trust property from himself at private sale is held in *Clay v. Thomas*, 178 Ky. 199, 198 S. W. 762, annotated in 1 A.L.R. 747.

Usury — effect of usurious renewal. Antecedent indebtedness is held not affected by subsequent usurious renewals or extensions where the transactions are distinct, in *Cain v. Bonner*, 108 Tex. 399, 194 S. W. 1098, annotated in 3 A.L.R. 874.

Witness — expert — compelling testimony. That a witness cannot be compelled against his objection, to testify as an expert in favor of a private litigant, is held in *Pennsylvania Co. v. Philadelphia*, 262 Pa. 439, 105 Atl. 630, which is accompanied in 2 A.L.R. 1573, by a note on the power of the court to compel an expert to testify.

Witness — impeachment — occupation. That a witness may be asked as to his occupation for purpose of impeachment is held in *People v. Bond*, 281 Ill. 490, 118 N. E. 14, annotated in 1 A.L.R. 1397.

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FROM the recent meeting of the American Bar Association, held in Boston during the first week in September, come words of warning, encouragement and devotion to the ideals of the Republic. We take pleasure in presenting some of the striking utterances expressed.

Brings England's Greetings.

The greetings of the bench and bar of England were brought to the American Bar Association by Viscount Finlay, former Lord Chancellor of England.

He said: "It is, indeed, a great heritage, that of the common law of England, to which we of both sides of the Atlantic have fallen heir. You, like ourselves, are proud of its traditions and of the spirit of liberty which it breeds; and we in England are proud of the development which it has received in the United States.

"The relations between the judiciary Bench in England and the judiciary Bench in America have ever been most cordial, and we recognize to the full the assistance which reference to American decisions in the illustrations of points of difficulty has afforded, the decisions of your great judges, among whom I may venture to mention only two, that great chief of your Supreme Court, Chief Justice Marshall, and Mr. Justice Story, whose commentaries are appealed to wherever English law prevails."

Response by Hon. Elihu Root.

The remarks of Viscount Finlay were loudly applauded by the convention. As the cheers died away there were cries for "Elihu Root; we want Root," and the former Secretary of State made response to the greetings of the English jurist:

"I agree," he said, "that the friendship and united action of the two great English-speaking peoples, of all the great English-speaking people, from whose fathers came the rulers of liberty and a system of laws under which the happiness and peace of the people are promoted, must be the safeguards of the democracy of the world.

"We put into our Constitution the principles of civil liberty which the people of Great Britain were working out through painful struggles for centuries. It remains for the forces on both sides of the Atlantic to see to it that in the solution of the serious questions now before us those eternal principles shall be applied.

"It is not by mere words that these great principles can be maintained, but I am sure I speak the thoughts and impulses of every member of the American bar here to pledge to them our best devotion."

Elements of Democracy.

President George T. Page spoke on the subject of "Government," and considered at length some of the problems of the present day which involve dangers to democracy.

"We are face to face" he remarked, "with the question, Shall we have a democracy? 'Shall this nation, under God, have a new birth of freedom,' not for a part of the people, but for all the people?"

"Common honesty, unselfishness, are not merely idealistic things to be applauded in fine speeches. Justice is not

a thing to be orated about, but only administered, if at all, through the courts. To be individually honest, to be individually unselfish, to individually deal justly with your fellow-men are necessary elements in the making of a democracy. The man who comes without those things comes empty handed, unfitted to share in the rule of the people. They are the warp and woof of liberty. "What is liberty? It is truth lived 100 per cent. 'What is truth?' Pilate asked the Christ. Truth is the eternal harmony of things. That which is true, spoken or done to-day, will remain true and will fit into and harmonize with every other true word or deed, wherever spoken or done, while the universe lasts. Truth is not a fanciful, unattainable thing. John Marshall found the truth, and it made his decisions great and enduring. Washington and Lincoln and Roosevelt, though at fault many times and in many ways, found and lived great human truths, and won eternal fame."

Nationalism or Mundanism.

Secretary of State Lansing introduced a fresh term—mundanism—to describe the new order of internationalism "which is founded on a deep abiding faith in nationalism as the essential element of the present order." He believes that any new world order must be established upon nationalism, and that national rights must be maintained in a world combination in the same way as individual rights are preserved in a national organization.

"It is manifest" he stated, "that this war has given an impetus to what is commonly termed internationalism though it would be more proper to call the communistic doctrine mundanism. This pseudo internationalism seeks to make classes, or in some cases individuals, the units of world organization, rather than nations. It is the enemy of nationalism, which is the basis of world order as we know it. It is a real, though not always an open, enemy of national independence and of national

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sovereignty. Its more radical adherents demand class allegiance, and discourage or denounce national allegiance. In its extreme form it purposes to remove national barriers and to overthrow national governments, whether democratic or monarchic in form. This is not a new communistic doctrine or theory, but it never became an actual menace to the present social order until the successful revolution in Russia fell into the hands of the Bolsheviks. Spreading from this center of unrest and disorder, the movement has to-day assumed proportions which command the serious consideration of every civilized people. In certain lands the economic conditions and state of wretchedness resulting from the war have been peculiarly favorable to its growth. However safe this country may be from the more pernicious forms of this doctrine, and however confidently we may rely upon the sound common sense of the American people, we cannot ignore the dangerous possibility that moderate forms may, under certain influences, develop into extreme, and threaten our political institutions. We ought to realize that the world cannot be organized on both mundanism and nationalism. The political cleavage must be between nations or between classes. We must choose between these two conceptions of world order.

"I have no doubt what the final verdict will be unless thoughtful men fail in their duty. It will be for nationalism, not the evil form of nationalism which was the bane of the eighteenth and nineteenth centuries, but the democratic form which will develop in the present century, and become the corner stone of the new order."

A Plea for International Law.

Criticism of the League of Nations covenant, as lacking a definite pledge that the nations will uphold international law, was made by Dr. David Jayne Hill, former ambassador to Germany. Speaking on "The Nations and the Law," Dr. Hill said:

"The fundamental issue of world order is not the possibility of forming a union of powers strong enough to impose its will upon other states, but the

question whether the powers entering into such a combination are disposed to bind themselves to the acceptance and observance of definite legal principles, irrespective of their commercial interests and military strength.

"We must repudiate, as inconsistent with the nature of a truly constitutional state, any form of international association that does not assume as its first postulate the authority of international law over all nations. It would be an error to suppose that imperialism is essentially dynastic. Its present phase is that of race domination and economic control. Imperialism is not so much a form of government as it is a lust for power.

"The greatest danger to the peace of the world to-day is the menace of the socialized state, which is based on a grossly materialistic philosophy, and, if generally realized, would transform whole nations into industrial and commercial corporations, claiming absolute sovereign authority, pitted against one another in rivalry to possess the wealth of the world."

Bolshevism—Causes and Remedies.

Attorney General Charles D. Newton of New York, in his address before the National Association of Attorneys General, urged deportation as the most effective cure for radicalism.

He stated: "I believe that in deportation lies the most effective means of solving this problem. Large numbers of these radicals are aliens, who have no intention of becoming Americans. They come to this country solely for the purpose of agitating unrest. They should be deported.

"As additional remedies I would suggest Americanization and the country-wide organization of the veterans of the World War into actively patriotic legions, ever watchful of movements designed to destroy the ideals for which these veterans fought.

"By Americanization I mean intensive instruction in our schools in the ideals and traditions of America, in the nature of her institutions, in the history of these United States. Implant in the minds of our children an appreciation

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of the liberties America alone can give, the liberties that spring from respect for law and order, obedience to constituted authority; liberties, rights, and consequent happiness which are unobtainable in any other country in the world, and you will create in the new generation an American citizenry that in the years to come will stamp out the last vestige of I. W. W. and kindred creeds. Let Americanism be the universal aim. Teach it to American children, and preach it to the foreigner who comes to our shores. Americanism is surely an antidote for Bolshevism."

Antidote for Bolshevism.

Judge Elbert H. Gary, in his address before the association, remarked:

"The labor question at present is of commanding interest, first, because labor is essential to economic growth and virility, and, secondly, because it is persistently sought by self-appointed leaders to enlist the sympathy and support of workmen in agitation for the substitution of the rule of force for the rule of law and reason. It is commonly designated as Bolshevism. These agitators will not succeed in the United States. However, it may be observed that the antidote for this poison is plenty of work at reasonable rates of compensation, when compared with the cost of living; healthful, safe, and agreeable working conditions, opportunity for workmen to advance in positions according to merit; and a chance to invest their savings in the business with which they are connected. The employers must not and will not give the employees good ground for complaint, and intelligent public sentiment will exercise a controlling influence in preventing a return to barbarism. Employers and employees are under equal responsibility to the general public, of which they are an important part, to assist in maintaining industrial peace and prosperity."

Our Constitution New.

Judge Robert L. Batts of Austin, Texas, spoke upon the subject of "The New Constitution of the United States." In an exhaustive

study, he traced the gradual transfer of power from the states to the general government, and the growth of new methods and interpretations which he regards as supporting the contention that the country is now living under what is virtually a new constitution and a new government, whose strength is in the intelligence of the masses of the people and whose weakness lies in the power of the mob.

"That the legitimate requirements of labor" he said "shall be accomplished, or the burden of an inability to meet them equitably distributed among all classes, is an end to which wise men will work. The economic policy, however, of the country is not for any one class to determine; it must be the solicitous business of every class. That any part of the government be turned over to any agency that does not represent all the people involves the destruction of liberty and democracy, and the substitution of the murderously insane schemes of Lenine and Trotzky.

"The new Constitution is almost without safeguards. The people are not afraid of themselves. They apparently feel that they have the intelligence not to destroy the good in their institutions; that they may take liberties with the written part of their Constitution; that they may leave their Constitution adjustable, flexible, responsive to what seems to be a present need, though the new policy may conflict with principles heretofore regarded as fixed.

"I have not undertaken to discuss the merits of the new Constitution. I neither condemn nor commend it. It is so, and being so, it is inevitably so. Its strength is in the masses of intelligent people who do not care to risk their property by radical and experimental changes. Its weakness is the weakness of all democracies—the strength of the mob. Power has been taken from forty-eight state legislatures and given to Congress. This concentration of power has created a dangerous weakness, making easy the exercise of the mob's violence.

"That a nation, growing and developing as rapidly as the United States,

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should have broken the restrictive bonds of words was inevitable; to realize that just as important changes are imminent does not require the prevision of a seer. In the great crisis of civilization, the Constitution has not so far failed; it is being subjected to the supreme test in a determination of whether prejudice, partisanship, and selfishness are to prevent the nation's duty to its own people and all mankind."

Exemption of State Securities from Federal Taxation.

Discussing at some length the power which Congress is assumed to have derived, from the 16th Amendment, to tax state securities, Albert C. Ritchie of Maryland reached the conclusion that, inasmuch as both the state and the nation are sovereign entities, each with the sacred power of borrowing to carry on governmental functions, neither has the right to tax the securities of the other.

He said: "Once make the borrowing power of the states subject to taxation by the nation, and you give the nation a control over the governmental functions of the state which destroys, by just so much, state sovereignty. This destruction is not theoretical, it is actual. For the governmental functions of the state are carried on by borrowed money, no less than by money raised through taxation. Subject the securities issued by the states for such borrowed money to Federal taxation, and inevitably you place the performance by the states of their governmental functions at the mercy of the Federal government."

A Cautious Witness. Uncle Rastus, testifying in a certain lawsuit, refused to be sworn.

"Ah will affirm," he said.

"But, Uncle Rastus," said the judge, "how is this? Last week, in the Calhoun Case, you swore readily enough."

"Yo' honah," said Uncle Rastus solemnly, "Ah was mo' suah o' mah facks in dat case dan in dis one."—Minneapolis Journal.

Making Crime a Luxury. "Many motor speeders arrested in your town, Uncle Si?"

"No. There used ter be, but we settled them fellers, all right. Hain't been hardly an arrest in six months."

"How did you manage it?"

"Wal, we jest fixed the speed limit at 75 miles an hour, an' darned few of 'em kin make it, b'gosh!"—Boston Transcript.

Well, Hardly. "The train struck the man, did it not?" asked the lawyer of the engineer at the trial.

"It did, sir," said the engineer.

"Was the man on the track, sir?" thundered the lawyer.

"On the track?" asked the engineer. "Of course he was. No engineer worthy of his job would run his train into the woods after a man, sir."—Ladies' Home Journal.

The Proximate Cause. Judge. "What was the cause of the rum-pus?"

Policeman. "Well, you see, judge, this man here and that woman there are married—"

Judge. "Yes, yes, I know; but what was the other cause?"—Boston Transcript.

Clubs Were Trumps. The policeman had a gambler by the arm and was waiting for the patrol wagon to arrive.

"What are you doing?" asked a friend of the officer, who happened to be passing.

"I am holding a card party," replied the cop.—Boston Transcript.

Material Evidence. Magistrate. "You say that the prisoner looked round carefully and whistled. What followed?"

Witness. "His dog, your worship!"—Tit-Bits.

Colloquial Verdict. "Let's call it off," said the alienist, as he finished examining a patient for insanity.—Boston Transcript.

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Properly Named. There is an old darky in Omaha who does odd jobs of hauling, for which purpose he uses a gigantic mule of tremendous strength and equal deliberation and determination. One day John asked the old man the mule's name.

"Dat mule am name Co'poration," was the answer.

"What on earth ever made you give it such a name as that?" John asked.

"Jes' cause dat am de nachel nam' fo' 'im," said the old man. "Dat ar mule it kin stan' mo' 'buse an' go right ahaid havin' its own way dan any w'ite pusson yo' eber see."—Louisville Times.

The Usual Courtesy. "Brokesley," said the grocery keeper to the dead-beat who was planning to move out of the community, "I don't believe you will ever pay me what you owe me. It isn't worth while to sue you for it, and you have nothing I care to attach. I will simply give you a receipt and call it paid."

"Fine of you," said Brokesley.

A few moments after, seeing that Brokesley still lingered about, the merchant said: "Was there something you wished to speak to me about?"

"Not especially, but ain't it customary to give a feller a cigar when his account's settled?"—Philadelphia Ledger.

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Veneration of the Law.

THE earliest conception of justice appears to have been not an act of any lawmaking assembly, but a judgment pronounced by the primitive ruler—the patriarch-king. In the belief of his people it was a divine inspiration, what we should call a stroke of genius. His judgments were called themistes, from the name of the goddess of justice, Themis, whose mouthpiece he was supposed to be.

We have traveled a long road since then. How can we expect men any longer to revere the law, which they now understand to be no gift of a god, but only the result of conflicting social forces—a conflict in which, perhaps, the individual's own idea of what the law should be has been overborne? And yet, if men are capable of taking a broader view they will see that there is really something noble and august in this new conception of law as the expressed will of a free and mighty people; and there should be something impressive, not to say awe-inspiring, in the visible enforcement of that will. This may not be the poorest of all times to consider whether it may not be worth all the pains we can take to surround the execution of the law with every form of dignity and propriety that may serve to touch the imagination of the people, and lead them to associate the act with all that is worthy of regard and veneration. For one thing is certain; there never was a great people that did not venerate the law. What gave Sparta her long supremacy among the states of Greece? What, indeed, but her inflexible—you might almost call it her blind and unreasoning—fidelity to law? "Stranger, go tell the Spartans that we lie here in obedience to their laws." Those were the words graven on the tomb of Leonidas and his companions at Thermopylæ. There they slept in unquestioning obedience to a law that said no Spartan ever should retreat, no matter what the odds. Such a sentiment, inspiring all its members, is enough to make any nation great. Without some such reverence for law, the authentic voice of our millions of self-governed men, we may pile our wealth in mountains, but we shall be as a rope of sand.

—Address of Justice Wendell Phillips Stafford at the Rededication of the Court-house of the Supreme Court of the District of Columbia.

